tion of the insured's privilege? The rule is very clear that it is not for either party to litigation to interfere to prevent a witness from testifying to his own guilt of crime, though he is privileged not to do so, *and this because the privilege is not theirs. R.* v. *King Lake,* 11 Cox Cr. 500, 22 L. T. R. (N. S.) 335; *Samuel* v. *People,* 164 Ill. 379; *Cloyes* v. *Thayer,* 3 Hill 564; see Wright, J., in *Russ* v. *Steamboat War Eagle,* 14 Ia. 363, 375 (involving right of party to object that examination of witness involved disclosure of marital confidences). Are the circumstances in a case like that under consideration so different as to impose an obligation upon one party or the other to protect the privilege of one to whose interests his own are diametrically opposed. If the testimony is received against the objection of the insurer that it is privileged, can he assign error on the ruling? Upon what theory can he claim to be prejudiced when the privilege was another's and not his own? A stranger is not to be heard in protection of the privilege of another while living and able to insist upon it or waive it as he may please. Upon what theory does death make the stranger the guardian of that privilege?

One of the most fundamental of procedural principles is that all evidence having probative value should be received. While the law is opposed to compulsory disclosure of that which it has said may be kept secret, still there is no prejudice in the law against disclosure where privilege is not claimed. It is to be claimed by whom? Surely not by one in the service of his own interest as against that claimed through the one privileged.

V. H. L.

TRIAL—USE OF UNPROVED MAP OR DIAGRAM IN ARGUMENT TO THE JURY.—In the trial of an action for an unlawful entry and detainer, counsel, against the objection of the party opposing, in his argument to the jury was allowed to use a rough sketch or diagram of the *locus in quo,* made by his client, the defendant, for the purpose of assisting the jury to understand the bearing of the testimony in the case. No witness had testified upon inspection of the diagram that it correctly represented the situation involved, nor did counsel claim that there was such testimony. What counsel evidently was claiming was that the testimony of the witnesses testifying in the case did establish the existence of facts illustrated by the diagram.

It was held by the reviewing court that such use of the diagram in argument to the jury was proper. *Wilson et al.* v. *McCoy et al.* (W. Va., 1920), 103 S. E. 42.

In another case reported in the same volume, on a trial for murder in which one of the defenses was that the defendant was insane, his counsel was allowed by the trial court, against objection ,to use a sketch prepared by himself, in his argument to the jury. Considerable testimony was before the jury tending to show that several of the blood kindred of defendant, on both his father's and mother's side, were or had been insane, and that several had committed suicide.

Counsel had sketched a "genealogical tree" upon the basis of the testimony of the witnesses in the case, to present graphically these facts, claimed

by him to be established by such testimony. While using this sketch for this purpose, upon objection by the state that its accuracy was not proven, he was stopped and its further use prevented. The court reviewing the trial sustained the ruling of the lower court. This clearly appears from the opinion, although the syllabus of the case makes a directly opposite claim. *State* v. *Bramlett* (S. C., 1920), 103 S. E. 755.

These cases are directly opposed in their understanding of the controlling principle, or it is better said, the court in the case last mentioned failed to perceive the applicable principle. Of course counsel in argument should not be allowed to present facts to the jury and ask it to accept them upon the credit of his statement. Counsel does have the right however, to insist that the evidence in the case does establish the existence of particular facts which it tends to prove, and if he can better assist the jury to appreciate his contention by a graphical presentation of his idea than by spoken words alone, there is no reasonable objection to his so presenting it. As well might he be shackled in hand and foot lest by some gesture he make more emphatic and clear his contention, or forbidden to use illustration not proven in the case, lest the same result should follow. Witnesses are continually being allowed to present their ideas by the use of such aids, and why should not counsel have the same right? It is no answer that the witness is speaking under oath. True he is under oath, and he is not permitted to express his ideas unless he is, but counsel *is* permitted to express his ideas without taking any save his official oath. It is nonsense to say that he may present his ideas to the jury without oath if he does so by spoken words, but must be under oath if he would present them graphically. There can be no possible legal objection to the presentation by counsel in argument of a sketch of a "genealogical tree," and pointing out to the jury that the branches indicate the several kindred shown by the testimony to have kinship with a particular person, and that certain of those there indicated are by the testimony shown to have been insane, or to have committed suicide, where those facts are material.

V. H. L.

CRIMINAL LIABILITY OF CORPORATIONS.—The present-day tendency of holding criminal law applicable to corporations as well as persons in the ordinary sense is strikingly shown in *State* v. *Lehigh Valley R. Co.* (New Jersey, 1920), 111 Atl. 257, where, under an indictment for manslaughter by causing a person's death through the negligent handling of a car loaded with ammunition, there being no statute involved, it was held that a corporation was indictable. The case has been before the court on several prior occasions, and was disposed of by holding that the common law had been modified by the decision of Chief Justice Green in *State* v. *Morris & Essex R. Co.* (1852), 23 N. J. L. 360, and the cases following that decision, and that under these authorities the indictment could be sustained. Four members of the court dissented, holding that the common law had not been changed to this extent, and that this point had not been decided by any of these prior decisions.